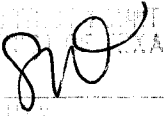


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

2018 JUL 13 PM 3:58

CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY 

MARKUS A. GREEN

V.

TEACHER'S RETIREMENT
SYSTEM OF TEXAS

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§

CIVIL NO. A-18-CV-563-LY

ORDER OF DISMISSAL

Before the court is Markus A. Green's Petition for Writ of Mandamus. The court presumes Green seeks leave to proceed *in forma pauperis*.

Under the Prison Litigation Reform Act, a prisoner cannot bring a new civil action or appeal a judgment in a civil action *in forma pauperis* if he or she has three or more times in the past, while incarcerated, brought a civil action or appeal in federal court that was dismissed because it was frivolous, malicious, or failed to state a claim upon which relief may be granted. The only exception to this is if the prisoner is in "imminent danger of serious physical injury." See 28 U.S.C. § 1915(g). A prisoner who is not proceeding *in forma pauperis* may file a new civil action or appeal even if that prisoner has three or more dismissals described in section 1915(g). Regardless of whether a prisoner proceeds *in forma pauperis* in a civil case, if at any time the prisoner's case is dismissed as frivolous or malicious, or for failure to state a claim, the dismissal will count against the prisoner for purposes of the three-dismissal rule.

While incarcerated, Green has filed at least three civil actions or appeals that have been dismissed as frivolous, malicious or for failure to state a claim. See *Green v. Vu*, No. 10-50223 (5th

Cir.) (dismissed as frivolous Aug. 27, 2010); *Green v. Vu*, No. A-09-CV-913 (W.D. Tex.) (dismissed as frivolous Feb. 4, 2010); *Green v. Grampre*, No. 10-50230 (5th Cir.) (dismissed as frivolous July 30, 2010); *Green v. Grampre*, No. A-09-CV-865 (W.D. Tex.) (dismissed as frivolous Feb. 4, 2010); *Green v. Boyd*, No. A-08-CV-036 (W.D. Tex.) (dismissed for failure to state a claim June 10, 2008). Therefore, Green may not file another civil action *in forma pauperis* while incarcerated unless he is in “imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). Green’s petition does not meet that standard.

It is therefore **ORDERED** that Markus A. Green is **DENIED** leave to proceed *in forma pauperis*, and his petition is **DISMISSED WITHOUT PREJUDICE** pursuant to the three-dismissal rule of 28 U.S.C. § 1915(g). Green’s petition may be reinstated only if the full filing fee is paid simultaneously with the filing of a motion to reinstate.

SIGNED this 13th day of July, 2018.

A handwritten signature in black ink, appearing to read "Lee Yeakel", written over a horizontal line.

LEE YEAKEL
UNITED STATES DISTRICT JUDGE